

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: U S WEST COMMUNICATIONS, INC.	DOCKET NO. RPU-00-3 (TF-00-160)
---	------------------------------------

ORDER DOCKETING TARIFF FOR INVESTIGATION

(Issued July 28, 2000)

On June 28, 2000, U S WEST Communications, Inc. (U S WEST), filed with the Utilities Board (Board) certain tariff pages proposing text changes to the “General” section of U S WEST’s Exchange and Network Services tariff. U S WEST proposes to include the following language relating to construction charges in its tariff:

The Company, at the customer’s request, may modify similarly situated customers’ obligations pertaining to support structures which include, but are not limited to pipes, conduits, poles, trenches and backboards for the placement of telephone facilities in housing developments, commercial properties and business developments where alternative facilities based service provider is available.

On July 20, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to U S WEST’s proposed tariff revision. Consumer Advocate argues the proposed tariff is contrary to both law and public policy and should be rejected.

Consumer Advocate argues the proposed tariff violates the statutory prohibition against discriminatory rates and terms of service found in Iowa Code § 476.3 (1999) because it would authorize U S WEST to give special treatment to some customers on the basis of whether a third party (an “alternative facilities based service provider”) is available to the customer. Consumer Advocate also argues the tariff is unreasonably discriminatory because it would give U S WEST “enormous unfettered discretion as to how the tariff is applied.” Consumer Advocate argues that key terms are left undefined and there is no information regarding the nature, timing, or other requirements for the “customer’s request.” As a result, Consumer Advocate argues the tariff is too vague to be approved, noting that “tariff provisions...should be written in clear and unambiguous language. The combination of explicit discretion and latent ambiguity in the proposed tariff would invite inconsistent and discriminatory application.”

Consumer Advocate also objects to the proposed tariff because it may result in additional costs being allocated to customers receiving regulated local exchange services without adequate contribution from deregulated services that may also be provided using the same facilities. If so, according to Consumer Advocate, U S WEST would be using basic exchange service rates to subsidize or offset the costs of its other products or services, in violation of Iowa Code § 476.100(6).

The Board will suspend the tariff and docket it for investigation, pursuant to Iowa Code § 476.6 and the terms and provisions of U S WEST’s price regulation

plan approved by the Board in Docket No. RPU-98-4. Consumer Advocate has raised a number of legal issues with respect to the tariff, but it does not appear any material issues of fact have been alleged that would require a hearing. On this basis, the Board will establish a briefing schedule for receipt of argument. If, however, either party believes there are material issues of fact to be decided, that party should file a request for a hearing describing the alleged issues of fact and the nature of the expected testimony. The Board will rule upon any such request after hearing from the other party.

IT IS THEREFORE ORDERED:

1. Pursuant to Iowa Code § 476.6 and the terms of U S WEST's Iowa price regulation plan, U S WEST's proposed tariff relating to construction charges, identified as No. TF-00-160, is suspended and docketed for investigation of the issues raised in the objection filed by Consumer Advocate on July 20, 2000. The matter is identified as Docket No. RPU-00-3.

2. Any party believing there are material issues of fact to be decided by the Board with respect to this matter must file, on or before August 14, 2000, a request for hearing. Responses to any such requests must be filed on or before August 28, 2000.

3. If no party files a request for hearing, the following briefing schedule is established:

a. U S WEST shall file its initial brief on or before August 21, 2000.

b. Consumer Advocate (and any intervenors) may file a responsive brief on or before September 11, 2000.

c. U S WEST may file a reply brief on or before September 25, 2000.

If a timely request for hearing is filed by any party, this briefing schedule will be suspended without further order of the Board.

UTILITIES BOARD

/s/ Allan T. Thoms

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 28th day of July, 2000.